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Governor Michael J. Dunleavy
STATE OF ALASKA

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Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

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FCC Mailroom

Via Email:

Re: Petition for Reconsideration, *Promoting Telehealth in Rural America*, Report & Order,
FCC No. 19-78, WC Docket No. 17-310

Dear Ms. Dortch:

Pursuant to 47 C.F.R. § 1.429, the State of Alaska ("Alaska" or "State") hereby petitions for reconsideration of the Commission's Report and Order¹ released on August 20, 2019 ("RHC Order" or "Order").

The Commission's Rural Health Care Telecommunications Program (the "RHC Telecom Program" or "Program") has provided essential support for access to critical telehealth services for rural Alaskans, which in turn has enabled continued expansion of essential broadband infrastructure. Alaska needs its telehealth infrastructure to continue to improve so that residents in all rural communities can get the services they need locally, and to reduce healthcare costs and improve patient outcomes in medically underserved communities. The RHC Order, however, reforms the mechanisms for determining recovery rates under the Program in ways that don't sufficiently acknowledge the logistical and economic challenges to delivering service throughout rural Alaska, nor does it recognize the dramatic differences between our regions and communities - not just from the rest of the country - but how different they can be from each other. These changes will harm Alaskans by systematically underfunding telecommunications connections used to deliver healthcare services in the State's most rural and hardest-to-serve communities, the vast majority of which lack access to local medical care.

¹ *Promoting Telehealth in Rural America*, Report and Order, FCC No. 19-78, WC Docket No. 17-310 (rel. Aug. 20, 2019) (published in the Federal Register on October 11, 2019 at 84 Fed. Reg. 54,952).

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The State of Alaska asks the Commission to reconsider its rate-setting mechanism for the RHC Telecom Program as it applies to Alaska, especially with respect to the geographic tiers that it created for determining a reasonable recovery rate. While we appreciate that the Commission's tiers recognize that on-road and off-road Alaska are different, this concept could, and should, be taken further to provide a more fair and accurate categorization of comparability. Our communities have diverse operational environments, costs to serve, unique geographies, and topographies. The Order ignores the tremendous variation in conditions within its on-road and off-road groupings of Alaskan communities, skewing the rate-setting mechanism to the detriment of higher-cost communities in both categories that are the most difficult and costly to serve.

The easily predictable, and concerning, result is that these higher-cost communities will receive less support than they need to benefit from quality telemedicine services, even though they are the ones that need telemedicine the most. This will have reverberating impacts throughout our state. Many of our communities still lag behind urban-level broadband services, and these rules, as written, could be expected to stymie future investment, leaving critical parts of Alaska lagging further behind the rest of the United States in connectivity. The Order, however, magnifies the funding bias against hard-to-serve communities by setting rates at a median within its overbroad community groupings, as well as through other rate-setting requirements. To create a mechanism that works, Alaska needs to have the Program utilize zones that group together only communities with similar expected costs to serve, and otherwise set recovery rates with an eye toward preventing below-cost funding.

Because the current broad-brush approach to tiers first appeared in a draft released shortly before the Order was adopted, this Petition is the State's first meaningful opportunity to engage in the Commission's process, and articulate how its actions, if left uncorrected, will harm Alaska and its people. The State strongly supports the Commission's efforts to ensure the delivery of telehealth services to the rural residents who often need them most, and presents the information in this Petition to help the Commission in its reconsideration.

1. The Importance and Success of the RHC Telecom Program in Alaska.

The RHC Telecom Program is both uniquely important and extremely successful in Alaska. Alaska covers by far the most land mass of any state in the country; it is bigger than Texas, California, and Montana combined. Our statewide population is approximately 737,000, with about 40 percent of those residents calling Anchorage home, with many, many small communities scattered throughout our large state. Large geographic areas, communities ranging in size from 6,000 residents to two, and a general lack of infrastructure connecting most of these communities to urban Alaska, are the biggest challenges to any effective business case or public policy program in Alaska. Many of our rural communities face a multitude of barriers to the delivery of services widely available in other parts of the country. In these communities, telemedicine is especially important, as it provides access to healthcare for Alaskans who otherwise cannot reach in-person services. A 2014 review, for example, noted estimates that "telehealth consultations eliminated the need to travel in 75 percent of patients involved in

specialty consultations and 25 percent of patients involved in primary care.”² The importance of telemedicine for Alaskans will only grow as innovative healthcare and connectivity technologies further develop.

The RHC Telecom Program has been fundamental to the telemedicine innovation and growth thus far experienced in Alaska. Residents in Unalakleet, Bethel, the Aleutian Islands, or Utqiagvik, for example, no longer need to travel to Anchorage or wait for a monthly visit from a doctor, specialist, or psychiatrist - they can use their local healthcare provider’s telehealth network to connect remotely and receive treatment. In Savoonga, on St. Lawrence Island in the Bering Sea near Russia, a gunshot-wound patient was able to receive emergency surgical care under the remote supervision of a doctor when freezing rain delayed his medevac, which, even if available, would have taken hours to reach Anchorage. These networks simply would not exist without the RHC Telecom Program. The Program remains critical to expand and update networks like these as innovative and connectivity-driven telemedicine technologies continue to develop.

2. The Order Will Systematically Underfund Rural Alaska’s Telemedicine Infrastructure at a Tremendous Cost to Rural Alaskans.

Alaska’s concern driving this Petition for Reconsideration is simple: the failure of the RHC Telecom Program to capture the differences in the cost of providing telecommunications services to rural healthcare providers in Alaska’s diverse, rural communities will undermine further investment in, and expansion of, telecommunications infrastructure and healthcare delivery across the state. The result will be higher healthcare costs and less of the connectivity that healthcare providers need to deliver quality services. This inevitably will lead to less healthcare, period, given the importance of telemedicine to healthcare access in these remote, rural areas.

Importantly, the current proposed rules threaten not just telemedicine and the delivery of quality healthcare, but all aspects of Alaskans’ connectivity needs. In many Alaskan communities, given the limited number of residents and businesses, regional rural healthcare providers, along with regional school districts, are the only significant purchasers of telecommunications, and make it possible to deploy infrastructure to many communities. As a result, if rates under the RHC Telecom Program fall below costs, revenues in many areas will be insufficient to sustain a new build, make upgrades to existing facilities, or any viable continuing business case—meaning these communities will not have service, or upgraded service. That, of course, will affect not only the delivery of telehealth services, but educational, economic, and other opportunities in rural communities.

² Section of Health Planning & Systems Development, Division of Public Health, Alaska Department of Health & Social Services, *Health Care in Alaska* 30 (2014), available at <http://dhss.alaska.gov/dph/HealthPlanning/Documents/pdf/Health%20Care%20in%20Alaska%20-%202014%20update.pdf>.

The most fundamental problem with the RHC Order is that the geographic tiers used to set recovery rates do not capture the extreme diversity among rural Alaska communities in terms of resource, transportation, and infrastructure endowments. As applied to Alaska, the tiers are simply overbroad, resulting in the systematic underfunding of the hardest-to-serve—and most in need—rural communities.

Paragraph 32 of the Order first “designate[s]” three rural tiers: “Extremely Rural,” “Rural,” and “Less Rural.” Nearly all of Alaska is “Extremely Rural,” as defined in the Order. So, for Alaska, the Order added a sub-tier, “Frontier,” comprised of communities that are considered to be not on the road system, as defined by the Alaska Department of Commerce Division of Community and Regional Affairs. This information provides a “point in time” view about where road and transportation access is or isn’t for a particular community. What this information does not do is represent the State’s assessment of telecom cost-of-service characteristics. Relying on this unrelated information, however, the Order then treats communities within the same sub-tier (i.e., either “Frontier” or non “Frontier”) the same for rate-setting purposes, even though the Order also recognized (in paragraph 36) that “in Alaskan off-road communities, different levels of infrastructure may exist resulting in different costs for providing and obtaining services.”

By lumping fiber-served, off-road communities into the same geographic category with microwave and satellite-served off-road communities, the Order will mandate the same rate for all communities in the sub-tier, even though they have vastly different underlying infrastructure and network cost characteristics. That single rate will be the median for that specific service across all communities in, for example, the “Frontier” sub-tier, which by definition means that the rate will be set below half of the data points in the sub-tier. The same will be true among the on-road, non “Frontier” communities. Setting rates at a uniform median across such dissimilar communities will, of course, require rates to be set below costs in the more isolated rural villages.

The extreme degree to which the “Frontier” and “Extremely Rural” designations (and even the “Rural” and “Less Rural” designations, in some specific cases) fail to capture cost variability may be hard to appreciate in the abstract, and can be better understood by concrete examples:

- i. *Frontier” (Off-Road) Communities:* As we understand the RHC Order, Sitka, Kodiak, Chignik, and Meyers Chuck would all fall into the Frontier category. The populations of these communities range from Sitka’s 8,647 residents, the tenth most populated city in Alaska, to Meyers Chuck, with only 21 residents.³

The differences among these locations go far beyond population. Sitka, for example, is in Southeast Alaska on the western coast of Baranof Island, approximately 589 miles southeast of Anchorage. Travel to Sitka requires about an hour and a half flight from Anchorage to Juneau, then another 20-minute flight over to Sitka, or a four-and-a-half-hour ferry ride from Juneau. In addition to a State-owned paved and lighted runway,

³ See Alaska Demographics, https://www.alaska-demographics.com/cities_by_population (last visited Oct. 24, 2019).

daily commercial jet service, and five small harbors, Sitka welcomes over 200,000 cruise ship visitors annually, and is fiber-served. Kodiak (population 6,000) is located on Kodiak Island, the second largest island in the United States, and about an hour flight south of Anchorage. It is also fiber-served, has a State-owned airport with multiple daily flights to and from Anchorage, and approximately 140 miles of State roads connect to island communities on the east side of the island, but nowhere else. As a world-renowned fishing port, Kodiak has two boat harbors with 600 boat slips up to 160 feet in length. Within this same grouping, Chignik is a community of 91, located on the Alaska Peninsula in Southwest Alaska. It is mainly a fishing community, reached by small float planes or the ferry during the summer, and is satellite served. Meyers Chuck is a small community in Southeast Alaska. Travel to Meyers Chuck requires first a flight to Ketchikan, then chartering a water taxi service or floatplane from there. Aside from private water or aircraft, there are no other transportation links to the community, and it is served by microwave.

Even these basic descriptions demonstrate that the costs of providing telecommunications services across these communities are not at all “comparable.” Treating them as if they are will undermine investment and the delivery of telecommunications services to Alaskans who need them.

- ii. *“Extremely Rural” (On-Road) Communities:* The same kinds of problems exist within the “Extremely Rural” category. Kenai, Chicken, Valdez, and Manley Hot Springs are all examples of such communities. The populations of these communities, and thereby the basis of the demand for telecommunication services, vary greatly, with Kenai being home to over 7,700 Alaskans, and Chicken being home to less than 10; but their differences are much more significant than just population.

Kenai is about a three-hour drive from Anchorage on a State highway that is maintained year-round. It is fiber-served. The economy is supported by a variety of industries, from commercial and sport fishing, to oil and gas, and local government. Kenai is part of a group of similar communities that together make up the Kenai Peninsula Borough, home to about 50,000 Alaskans. Chicken, in contrast, is a mining community located in eastern interior Alaska not far from the Canadian border. It’s a 395-mile drive from Anchorage, or roughly equivalent to driving from Los Angeles to San Francisco. Fairbanks is more than five hours away, and the single road connecting the community is only open during summer months, with a gravel airstrip for landing small planes. The community is satellite-served. Also among this grouping is Valdez, with a population of about 3,800, a five-hour drive east of Anchorage, and fiber-served. It is the terminus of the Trans-Alaska Pipeline System (“TAPS”), which carries petroleum produced on the North Slope to tidewater where it is loaded onto tankers and shipped to west coast markets. Manley Hot Springs is a community of 89 people in interior Alaska near the Tanana River, a four-hour drive west of Fairbanks on a road that is maintained year-round. It is served by microwave and has a small airport.

Again, the costs of service in the more populated, fiber-served Kenai cannot be compared with those of sparsely-populated, satellite-served Chicken. Nor are these isolated examples. The same basic point could be made using many other Alaska communities, and just as in the “Frontier” cities discussed above, grouping these diverse communities together for rate-setting purposes and picking the median rate will inevitably underfund the most rural areas.

The RHC Order suggests (in paragraph 36) that further subdividing Alaska into more granular categories would be “time-consuming and administratively burdensome.” But the State has taken this kind of cost variability into account for numerous programs with success. Alaska’s Public School Funding Program provides one example. Notably, the State’s analysis in this area considers many more differentiators and results in far more individualized treatment than the RHC Order. While the RHC Telecom Program may not necessarily require the same level of granularity, it demonstrates that it is possible to develop and implement better-tailored approaches.

Alaska’s analysis of cost disparities in the provision of education begins with the size of the school. The State’s “School Size Adjustment” (“SSA”) to funding levels recognizes that smaller schools may incur higher costs than larger schools to offer the same types of education programs.⁴ The SSA accordingly takes into account both the size of the school community and the student population of the school itself. The “District Cost Factor” then applies an adjustment based on a wide variety of additional cost elements subject to geographic cost differences. Those factors include: (1) administrator compensation; (2) certified teacher compensation; (3) classified employee compensation; (4) travel of teachers from schools to district offices; (5) travel of teachers from district offices to Anchorage; (6) travel of school administrators from schools to district offices; (7) travel of superintendents from district offices to Anchorage; (8) travel of district administrators to schools; (9) travel of maintenance staff from district office or center of commerce; (10) energy costs; (11) goods—costs of instructional and office supplies, including shipping costs; and (12) goods—costs of maintenance supplies, including shipping costs.⁵

Alaska school funding also considers variations in special needs and intensive needs funding depending on the numbers of students requiring such services at different schools; variability in the costs of vocational/career and technical education depending on local demand and other factors; variability in the costs of transportation and correspondence programs as a result of

⁴ See Justin Silverstein, Amanda Brown & Mark Fermanich, APA Consulting, *Review of Alaska’s School Funding Program Prepared for the Alaska State Legislature* 8 (July 2015), <https://lba.akleg.gov/download/publications/school2015.pdf> (“Alaska Funding Review”); Alaska Department of Education & Early Development, *Public School Funding Program Overview* 3 (updated Jan. 2019), <https://education.alaska.gov/SchoolFinance/pdf/Funding-Overview.pdf> (“Alaska Funding Overview”).

⁵ Alaska Funding Review at 8-9; Alaska Funding Overview at 4.

geographic and other considerations; and variations in local communities' ability to contribute to education funding due to differences in wealth.⁶

The point here is not that the RHC Telecom Program should take the same or even similar cost variability factors into account. The factors the RHC Telecom Program should consider are clearly quite different, and include tele density metrics and whether a community is fiber-served, microwave-served, or satellite-only served for telecommunications services. The point, rather, is that when Alaska is called upon to consider cost variability across the state, its analysis is thorough and quite granular, and placing virtually all Alaskan communities into one of two categories for purposes of comparing rates under the RHC Telecom Program is insufficiently granular and our residents will be adversely affected. We would appreciate the opportunity to consult more closely with the Commission on how it could strike an appropriate balance that complies with Section 254(h) without undue administrative burdens.

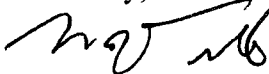
We are also concerned that other aspects of the Order will compound the bias against higher-cost communities. For example, "comparability" under Section 254(h) should presumably consider factors like service bandwidth, volume and term discounts, and service quality, none of which appear to be considered appropriately under the Order. While Alaska's purpose here is not to advance a particular methodology for taking cost variations across the state into account in the RHC Telecom Program, the State asks the Commission to reconsider its conclusions in the Order to ensure appropriate granularity, both geographically and otherwise.

3. Conclusion

As noted above, the success of the RHC Telecom Program in Alaska has been, and will continue to be, critical to the expansion of telecommunications infrastructure in rural Alaska. The State enthusiastically supports the Commission's efforts to ensure rates that will support that continued expansion, but believes that the RHC Order's placement of nearly all of rural Alaska into one of two tiers for rate purposes will miss that goal, and fears that other aspects of the Order's rate determination regime will compound the problem. Alaska accordingly asks the Commission to reconsider the rate-setting mechanisms of the RHC Order.

I look forward to the FCC reconsidering the details of this vital program.

Sincerely,



Michael J. Dunleavy
Governor

⁶ Alaska Funding Review at 29-31; Alaska Funding Overview at 4-6.